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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,554	11/27/2001	Kenneth S. Bloom	17724 USA	8757

7590 03/10/2005  
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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/994,554	Applicant(s) BLOOM ET AL.	
	Examiner Robin A. Hylton	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 02 December 2004.
- 2a)  This action is FINAL.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 3-24, 34-46 and 59-63 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 3-11, 13-19, 21-23, 34-41, 43-45 and 59-63 is/are rejected.
- 7)  Claim(s) 12, 20, 24, 42 and 46 is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \*    c)  None of:
1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-02-04</u> . | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

1. The indicated allowability of claims sdf is withdrawn in view of the newly discovered references to Hawkins et al (US 4,896,782) and Braun et al (US 3,425,579). Rejections based on the newly cited references follow.

#### *Claim Objections*

2. Claim 45 is objected to because of the following informalities: "wherein thickness" is missing "a" or "the". Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

3. Claims 22 and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "inwardly outwardly" in claim 22, line 3 is confusing.

Claim 45 recites the limitation "said radially inwardly directed surface of said rib" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

#### *Claim Rejections - 35 USC § 103*

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 3-11,13-19,21-23,38-41,43-45, and 59-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Towns et al. (US 4,674,642) in view of Hawkins '782.

Towns teaches a container having external threads and a closure having a plastic closure shell 12 having a skirt with a threads 18 and a bead 30 spaced from a base wall 14 and a disc 22 having a flat base wall, an annular ring 26 extending from the base wall, an annular rib extending from the periphery of the base wall, and a ring 24 extending from the base wall to engage an undersurface of the closure base wall. It is noted that any surface

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below the top surface is an undersurface. Thus, the ring 24 is engaged by an undersurface of the closure base wall as seen in figure 6. Towns is silent regarding a resilient liner molded on the disc.

Hawkins teaches it is known to provide a disc formed as a compression molded laminate having barrier properties. (See column 2, lines 45-47 and column 4, line 46 regarding the material).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a liner molded on the disc of Towns. Doing so provides known barrier properties to the closure and a resilient sealing liner to better protect the associated container contents from degradation and leakage.

Regarding the shape of the ring, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the ring of a curved configuration have both a concave and convex component since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

Regarding the thickness of the liner, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the thickness of the liner on the annular rib less than the thickness of the disk base and ring since the ring is thicker than the base and ring. Doing so provides a uniform sealing effect over the surface of the engaged closure and container.

Regarding the material of the liner, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further provide the liner of a barrier material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious

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design choice. Doing so provides barrier protection sufficient to protect the associated container contents from spoilage.

Regarding claim 14, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further provide the teaching of a tamper-evident band to the closure of Hawkins. Doing so alerts the end user of possible tampering of the associated container contents.

6. Claims 60,34,35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins in view of Li (US 4,700,860) and Braun '579.

Hawkins teaches a closure having external threads and a closure having a plastic closure shell having a skirt with a threads and a base wall and a disc 60 having a flat base wall 30, an annular ring 32 extending from the base wall, an annular rib 50 extending from the periphery of the base wall, and a liner 52 molded on the disc for engagement with a container finish (see column 5, lines29-31). Hawkins does not teach a ring extending from the base wall to engage an undersurface of the closure base wall nor the molded liner on an inwardly facing surface of the rib.

Li teaches it is known to provide the molded liner over the ring and rib to urge the liner into engagement with both the inner and outer surface of a container finish.

Braun teaches it is known to provide an axially extending bead around a peripheral portion of the flat base to space the disc from the base wall of the closure shell.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of molding the liner over the ring and the rib to urge the liner into engagement with both the inner and outer surfaces of the container finish and to provide an axially extending bead around a peripheral portion of the disc base to space the disc base wall from the closure shell base wall. Doing so provides a more complete sealing

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engagement around the associated container finish and also allows for irregularities in the container finish.

***Allowable Subject Matter***

7. Claims 12,20,24,36,42,46 are objected to as being dependent upon a rejected base claim, but would appear to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. In view of the new grounds of rejection based upon the newly found art, this Office action is made non-final.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art disclosures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

10. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

11. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

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I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-9306 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature\_\_\_\_\_

Date\_\_\_\_\_

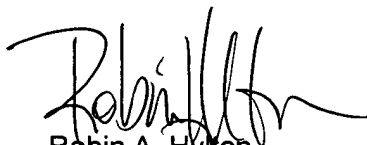
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (571) 272-4549.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148 or may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH  
March 7, 2005

  
Robin A. Hylton  
Primary Examiner  
GAU 3727